REMARKS

Claims 1, 3, 5-15, 17-20, and 31-34 are pending in the present Application.

Examiner's Response to Arguments and telephonic interview are sincerely appreciated.

Claims 1, 3, 4, 7-9, and 32 have been objected to because of certain specified

informalities. Applicant has appropriately amended claims 3, 7-9, and 32. Claim 1 recites

"...selection of with which network portion of the plurality of network portions that the mobile

node communicates". Applicant maintains that the language is correct – ending the clause in

a preposition, as one might in ordinary conversation, is incorrect (e.g., "...selection of which

network portion of the plurality of network portions that the mobile node communicates

with..."). Claim 4 was cancelled in a previous response. With regard to the objection to

claims 32-34 regarding "listing", Applicant maintains that the listings have been given

separate identities; that is, "the listing in the first database", "the listing in the second

database", etc., throughout claims 32-34, and provides a clearer identification of the listings

than does "first listing", "second listing", etc.

The specification has been objected-to as failing to provide proper antecedent basis for

the claimed "detector" subject matter. MPEP§608.01(o) states: "The meaning of every term

used in any of the claims should be apparent from the descriptive portion of the specification

with clear disclosure as to its import; and in mechanical cases, it _should_ be identified in the

descriptive portion of the specification by reference to the drawing, designating the part or

parts therein to which the term applies." Emphasis added. Examiner is respectfully referred

to paragraph [0018] of Applicant's specification: "The mobile node monitors messages

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broadcast upon broadcast channels by base transceiver stations of different networks. ... If, for instance, the data contained in the message *detected* by the mobile node during its monitoring of the broadcasts indicates that a network exhibits capabilities corresponding to capabilities already recorded at the database, the database entry is affirmed." Since "[t]he *specification shall conclude* with one or more claims particularly pointing out and distinctly claiming the subject matter..." (35 U.S.C.§112, second paragraph, emphasis added), Examiner is further referred to originally filed claim 2, where it is stated that the radio communication system comprises "a detector embodied at the mobile node, said *detector* for detecting messages delivered to the mobile node that are of values identifying the network-portion capabilities of associated network portions of the selected ones of the network portions." Also see original claims 3 and 8-10. In light of the foregoing, Applicant asserts the application *does* provide substantial support and antecedent basis for the term "detector" (and derivatives such as "detect", "detected", and "detection"). Further, "When the meaning of the claim would reasonably be understood by persons of ordinary skill when read in light of the specification, the claim is not subject to invalidity upon departure from the protocol of 'antecedent basis'...The Manual of Patent Examining Procedure states that '[o]bviously, however, the failure to provide explicit antecedent basis for terms does not always render a claim indefinite.' [D]espite the absence of explicit antecedent basis, '[i]f the scope of a claim would be reasonably ascertainable by those skilled in the art, then the claim is not indefinite." Energizer Holdings, Inc. v. ITC, 435 F.3d 1366, 1370-71, 77 U.S.P.Q.2d 1625, 1628 (Fed.Cir. 2006).

Claims 1, 3, 5-14, and 33 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite and failing to point out and distinctly claim Applicant's invention. In particular, claim element "a detector" is deemed to invoke 35 U.S.C.§112, sixth paragraph, and it is believed that the specification does not appear to provide a description of "detector" as including any hardware structure. Also, claim element "a selector" is deemed to invoke 35 U.S.C.§112, sixth paragraph, and it is believed that the specification does not appear to provide a description of "selector" as including any hardware structure. Applicant traverses Examiner's decision to apply §112, 6th to claims 1, 3, 5-14, and 33.

MPEP§2181 defines a three-prong test for application of §112, 6th:

(A) the claim limitations must use the phrase "means for" or "step for;"

(B) the "means for" or "step for" must be modified by functional language; and

(C) the phrase "means for" or "step for" must not be modified by sufficient structure, material, or acts for achieving the specified function.

Applicant's claims 1, 3, 5-14, and 33 meet none of these prongs. Moreover, none of the judicially established exceptions recited in the MPEP leading to the invoking of §112, 6th are present in Applicant's claims.

Even further, the Supplemental Examination Guidelines for Determining Compliance with 35 USC§112 and for Treatment of related Issues in Patent Applications, 76 FR 7162, 7168 (Feb. 9, 2011) ("Guidelines") explains: "...a claim limitation that does not use the phrase 'means for' or 'step for' will trigger the rebuttable presumption that §112, ¶6 does not apply. This presumption is a strong one that is not readily overcome... §112, ¶6 will not apply if

persons of ordinary skill in the art reading the specification understand the term to be the name for the structure that performs the function, even when the term covers a broad class of structures or identifies the structures by their function...The term is not required to denote a specific structure or a precise physical structure to avoid the application of §112, ¶6." Guidelines, p. 7167, first column last paragraph.

Claim 34 has been rejected under 35 U.S.C. §112, second paragraph, as being indefinite and failing to point out and distinctly claim Applicant's invention with respect to the term "receiver". Applicant has amended claim 34 appropriately.

Claim 31 has been rejected under 35 U.S.C. §112, second paragraph, as being indefinite and failing to point out and distinctly claim Applicant's invention. Claim 31 recites the element "a receive part". Applicant has amended claim 31 to read "a receiver part" consistent with paragraph [0038].

Claims 1, 3, 5-7, 9-15, 17-20, and 33 have been rejected under 35 U.S.C.§103(a) as being unpatentable over published European Patent Application No. EP0781064A2 by Jorma Seppanen et al. ("Jorma") in view of U.S. Patent Application Publication No. 2003/0129971 by Gopikanth ("Gopikanth").

Jorma is directed to a multi-mode mobile terminal having a single prioritized list of all available cellular networks and which provides access to the various networks based on the user's needs. Jorma's mobile station stores a single prioritized list of networks that are available to the mobile station and the mobile station can search for additional networks, including a search for additional networks that support only a specified type of service. See

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col. 5, lines 21-37. Further, in response to an input from the mobile station user, the mobile

station will reprioritize the networks. See col. 4, lines 8-9. The user may be presented with a

list of all of the available services in all of the available networks so that one of them may be

selected. See col. 6, lines 20-27.

Applicant's claimed invention requires that the listing be dynamically updatable and,

in particular, that the indication of packet data connection capability associated with a second

network in the mobile node storage element listing is to be altered when a message from the

second network indicates the second network portion's capability to be different than that

indicated in the listing. That is, a network capability indication entry _already in the stored_

memory is to be dynamically altered when a message indicates a different capability for the

network. With this feature, any network upgrades implemented at the radio access networks

to improve their capabilities are broadcast and implemented by the mobile nodes receiving the

broadcast. See Application, paragraph [0045].

Jorma, however, does not disclose the feature of being able to alter the network

portion's capabilities for already-stored network lists. Rather, Jorma only has the capability of

adding new networks to Jorma's stored list. Applicant has amended independent claims 1, 15,

32, and 34 to more clearly state the limitation that the indication associated with the second

network portion and already stored in the storage element is modified.

Examiner has observed that Jorma does not disclose a detector coupled to the storage

element adapted to receive a message from a second network portion identifying values

associated with the second network and to responsively alter the values stored in the storage

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element to alter the indication of network-portion capability of the second network portion of

the listing when the message is of values identifying a second network portion capability to be

different than identified in the listing; storing the unaltered values stored in the storage

element. Examiner has introduced Gopikanth as having disclosed this feature. Gopikanth is

directed to the selection of a wireless network that will meet certain network qualities, such as

bandwidth, for a mobile station. Gopikanth discloses that class-of-service is sent to mobile

stations as part of system information. See paragraph [0021]. The mobile station compiles a

list of networks and makes a suitable selection based upon the class-of-service required by the

mobile station. See paragraph [0037]. Further, Gopikanth's mobile station may continually

search for _new_ networks that offer better resources and offer access through these new

networks to the subscriber. See paragraph [0043], emphasis added. Gopikanth teaches that

the list of potential visited PLMNs may be prioritized based on signal strength, in paragraph

[0038] – this altering of the list priority being deemed a modification associated with the

second network.

Gopikanth does not teach that stored indications of second network portion capability

are to be modified, as the claims require. Gopikanth teaches that new networks with different

classes-of-service may be added. Applicant's claims specify that a message received "from

the second network portion identif[ies] the second network portion _packet data connectivity_

capability..." Moreover, the indication of packet data connectivity capability is stored in a

listing associated with the capabilities of the second network. This indication is not changed

at Applicant's mobile node unless the second network portion itself transmits a message with

second network portion capabilities, which the mobile node receives and determines that the

indication stored in the mobile node listing is different than the listing already stored. The

signal strength prioritization taught by Gopikanth is not a capability of the network (it is a

feature of the propagation path), the network does not broadcast a message with signal

strength information included, and Gopikanth does not teach that its mobile modifies an

indication associated with the network (rather, Gopikanth teaches the entire priority list is

formed based on signal strength). Thus, Gopikanth does not disclose the missing features of

Applicant's invention. And since neither Jorma nor Gopikanth, alone or in combination,

disclose all of the claimed elements, a *prima facie* case of §103 obviousness has not been

presented and the independent claims 1 and 15 are believed allowable. Claims 3-7, 9-14, 17-

20, and 33, dependent thereon are also believed allowable as dependent claims dependent

upon presumed allowable independent claims. Limitations similar to those included in

independent claims 1 and 15 have been included in independent claims 32 and 34.

Claims 32 and 34 have been rejected under 35 U.S.C.§103(a) as being unpatentable

over Gopikanth in view of U.S. Patent No. 7,606,242 to Whelan et al. ("Whelan"). As

described above, Gopikanth does not teach the dynamic altering of the indication of second

radio access network packet data connectivity capability in the listing in the second database.

Rather, Gopikanth teaches the addition of new networks with other classes-of-service to a

mobile station list of networks. Gopikanth does not address the problem of network upgrades

disclosed by Applicant and resulting in Applicant's claimed invention.

Examiner has observed that Gopikanth does not disclose the providing of the altered indication of the second radio access network capability to the first listing in the central database. The Whelan reference has been added as disclosing this missing element. Whelan is directed to network management and the enhancement of network security by control of the associations made between mobile units and known managed access points. Examiner has directed Applicant to Fig. 1 and col. 8, lines 33-40 as teaching the missing element. Applicant respectfully disagrees that the claimed missing element is disclosed by Whelan, since Whelan discloses that the mobile unit "*determines if* the association lists on the mobile unit 34 needs to be synchronized with the lists 16 on the server, *and if so*, updates the association lists 70." Col. 8, lines 33-36, emphasis added. Whelan's association lists are lists of access points that are mandated for use, excluded from use, or designated as preferred access points. See col. 4, lines 35-47. Whelan's mobile unit, therefore, undertakes a task of synchronization of the *lists* of access points. Whelan does not teach that the mobile unit alters any access point capabilities in the lists, or that any such capabilities are in fact stored at Whelan's mobile unit. Furthermore, Whelan's list synchronization is responsive to a polling and determination of a need for synchronization while Applicant has now claimed that the provision of an altered indication is responsive to the selection of a radio network.

Therefore, all of the elements of the invention claimed in Applicant's claims 32 and 34 have not been disclosed in Gopikanth or Whelan, taken alone or in combination. Since a *prima facie* case of obviousness has not been made, Applicant believes claims 32 and 34 to be allowable over the cited art.

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Claim 31 has been rejected under 35 U.S.C.§103(a) as being unpatentable over Gopikanth and Whelan in view of U.S. Patent Application Publication No. 2003/0186695 by Bridges et al. Claim 8 is rejected under 35 U.S.C.§103(a) as being unpatentable over Jorma and Gopikanth in view of U.S. Patent Application Publication No. 2004/0224689 by Raghjuram. Claims 8 and 31 are dependent claims, dependent upon presumed allowable independent claims and, as such, are believed to be allowable.

In light of the foregoing amendment and remarks, Applicant believes the present Application to be in a condition suitable for allowance. Applicant respectfully requests Examiner to withdraw the present objection and rejections, reconsider the claims as amended, and pass the present Application, as amended, to allowance.

Respectfully submitted,

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